

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

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2016 AUG 25 AM 9:42

S.D.N.Y.

Antoine Ross

16CV3704

Write the full name of each plaintiff.

(To be filled out by Clerk's Office)

-against-

COMPLAINT

(Prisoner)

Captain Willis Shield # 732

Officer John Doe (1); Officer John Doe (2);

Officer John Doe (3) (7x3 Tour); NYC

Do you want a jury trial?

☒ Yes ☐ No

Write the full name of each defendant. If you cannot fit the names of all of the defendants in the space provided, please write "see attached" in the space above and attach an additional sheet of paper with the full list of names. The names listed above must be identical to those contained in Section IV.

NOTICE

The public can access electronic court files. For privacy and security reasons, papers filed with the court should therefore *not* contain: an individual's full social security number or full birth date; the full name of a person known to be a minor; or a complete financial account number. A filing may include *only*: the last four digits of a social security number; the year of an individual's birth; a minor's initials; and the last four digits of a financial account number. See Federal Rule of Civil Procedure 5.2.

**I. LEGAL BASIS FOR CLAIM**

State below the federal legal basis for your claim, if known. This form is designed primarily for prisoners challenging the constitutionality of their conditions of confinement; those claims are often brought under 42 U.S.C. § 1983 (against state, county, or municipal defendants) or in a "Bivens" action (against federal defendants).

- ☒ Violation of my federal constitutional rights MK-9 Chemical Agent was NOT suppose to be used. I Feel my constitutional rights have been Federally  
☒ Other: unprotected from the use of Excessive Force  
I Never opposed as a threat. (Check cameras)

**II. PLAINTIFF INFORMATION**

Each plaintiff must provide the following information. Attach additional pages if necessary.

Antoine C Ross  
 First Name Middle Initial Last Name

State any other names (or different forms of your name) you have ever used, including any name you have used in previously filing a lawsuit.

B/c # 210-116-00100 NYSID# 

Prisoner ID # (if you have previously been in another agency's custody, please specify each agency and the ID number (such as your DIN or NYSID) under which you were held)

OTIS Bantam Correctional center  
 Current Place of Detention

1600 Hazen Street  
 Institutional Address

East Blmhurst N.Y. 11370  
 County, City State Zip Code

**III. PRISONER STATUS**

Indicate below whether you are a prisoner or other confined person:

- ☒ Pretrial detainee  
☐ Civilly committed detainee  
☐ Immigration detainee  
☐ Convicted and sentenced prisoner  
☐ Other: \_\_\_\_\_

## IV. DEFENDANT INFORMATION

To the best of your ability, provide the following information for each defendant. If the correct information is not provided, it could delay or prevent service of the complaint on the defendant. Make sure that the defendants listed below are identical to those listed in the caption. Attach additional pages as necessary.

Defendant 1:

Willis 732  
 First Name Last Name Shield #  
 Captain  
 Current Job Title (or other identifying information)  
 1600 Hazen Street  
 Current Work Address  
 East Elmhurst NY 11370  
 County, City State Zip Code

Defendant 2:

John Doe (1)  
 First Name Last Name Shield #  
 Correction Officer  
 Current Job Title (or other identifying information)  
 1600 Hazen Street  
 Current Work Address  
 East Elmhurst NY 11370  
 County, City State Zip Code

Defendant 3:

John Doe (2)  
 First Name Last Name Shield #  
 Correctional Officer  
 Current Job Title (or other identifying information)  
 1600 Hazen Street  
 Current Work Address  
 East Elmhurst NY 11370  
 County, City State Zip Code

Defendant 4:

John Doe (3)  
 First Name Last Name Shield #  
 Correctional Officer  
 Current Job Title (or other identifying information)  
 1600 Hazen Street  
 Current Work Address  
 East Elmhurst NY 11370  
 County, City State Zip Code

## V. STATEMENT OF CLAIM

Place(s) of occurrence: Housin area <sup>1 west</sup> cell # 30 (OBCC) Estt

Date(s) of occurrence: 6/14/16

## FACTS:

State here briefly the FACTS that support your case. Describe what happened, how you were harmed, and how each defendant was personally involved in the alleged wrongful actions. Attach additional pages as necessary.

On 6/14/16 between 6-7 O'clock hours, I was Sleep when the Probe team cracked my cell, came in and sprayed me in the face with MK-9 Chemical Agent. I tried to Explain to the officers that I took a heavy dosage of ~~Pset~~ Sedative medication and couldn't Move it to get up ~~for~~ court at the time. Again I was sprayed in my face for no reason. I never oppose as a threat to any of the officers. I was then placed in Flexible handcuffs to be Escorted to the Seg Intake. I begin to sneeze, cough and spit because of my medical condition. Im Very Asthmatic. I was then placed on a Gurney Chest First. Thats when I had Shortness of Breathing and I felt NO air coming from or threw my lungs. I then felt officers Pick me up from my Arms and legs and threw me into the Shower Face First. I felt alot of pain on my chest, Ribs as well as my back. Once I was secured in the Shower pen, the water pressure was High and Very Steamy, I Passed out From the Hot steam for about 3-4 minutes Struggling to breathe. Then I felt cold water and begin to wash the chemicals off. Later on, I was seen by medical



Members of the New York Department of Correction's Probe team; under color of law; violated Petitioners Constitutional right under the 4<sup>th</sup> Amendment to be Safe and Secure in his person.

#### INJURIES:

If you were injured as a result of these actions, describe your injuries and what medical treatment, if any, you required and received.

No Injuries were reported  
But I Explained to the Doctor, I was having trouble with Breathing and the Chemical was eating at my skin severely. I Made complaints that weren't Noted by Medical that my Asthma was triggered badly and the chemical also went Inside my left ear.

#### VI. RELIEF

State briefly what money damages or other relief you want the court to order.

Im asking for 2.5 Million For Money damage and that D.O.C and every Officer Involved in this Incident Implement a New Policy on how to use this Chemical.

I want the Court to see that this is life threatening to Asthmatic Patients Such as my self, And that D.O.C Verify with Medical before Utilizing this Chemical

## VII. PLAINTIFF'S CERTIFICATION AND WARNINGS

By signing below, I certify to the best of my knowledge, information, and belief that: (1) the complaint is not being presented for an improper purpose (such as to harass, cause unnecessary delay, or needlessly increase the cost of litigation); (2) the claims are supported by existing law or by a nonfrivolous argument to change existing law; (3) the factual contentions have evidentiary support or, if specifically so identified, will likely have evidentiary support after a reasonable opportunity for further investigation or discovery; and (4) the complaint otherwise complies with the requirements of Federal Rule of Civil Procedure 11.

I understand that if I file three or more cases while I am a prisoner that are dismissed as frivolous, malicious, or for failure to state a claim, I may be denied *in forma pauperis* status in future cases.

I also understand that prisoners must exhaust administrative procedures before filing an action in federal court about prison conditions, 42 U.S.C. § 1997e(a), and that my case may be dismissed if I have not exhausted administrative remedies as required.

I agree to provide the Clerk's Office with any changes to my address. I understand that my failure to keep a current address on file with the Clerk's Office may result in the dismissal of my case.

Each Plaintiff must sign and date the complaint. Attach additional pages if necessary. If seeking to proceed without prepayment of fees, each plaintiff must also submit an IFP application.

6-20-16  
Dated  
Antoine C Ross  
First Name Middle Initial Last Name  
1600 Hazen street  
Prison Address  
East Blauhurst NY 11370  
County, City State Zip Code

Date on which I am delivering this complaint to prison authorities for mailing: 7-16-16

Antoine Ross

210 16 00100

1600 Hazen Street  
East Elmhurst N.Y.  
11370

RECEIVED  
SDNY PRO SE OFFICE  
2016 AUG 25 AM 9:43  
S.D. OF N.Y.



The Daniel Patrick Moynihan  
United States Courthouse  
500 Pearl Street, Room 200  
New York, N.Y. 10007-1312

